

SERVICE DATE - AUGUST 4, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-227 (Sub-No. 9X)

WHEELING AND LAKE ERIE RAILWAY COMPANY—ABANDONMENT EXEMPTION—
IN HARRISON AND JEFFERSON COUNTIES, OH

Decided: July 30, 2003

On July 1, 1999, Wheeling & Lake Erie Railway Company (W&LE) filed a petition seeking an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon its line of railroad known as the Valley Line, extending from milepost 188.5 near Unionvale to milepost 205.54 near Warrenton, a distance of approximately 18 miles in Jefferson and Harrison Counties, OH. By decision served on October 19, 1999 (October 1999 decision), the petition for exemption was granted subject to certain conditions, including the condition that W&LE retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act (NHPA), 16 U.S.C. 470(f).

The Board's Section of Environmental Analysis (SEA) indicates that a Memorandum of Agreement (MOA), designed to mitigate any adverse effects on historic properties resulting from the proposed abandonment, has been signed by the Board and the Ohio Historic Preservation Office. W&LE has concurred in the MOA. The filing of the MOA with the Advisory Council on Historic Preservation completes the Board's compliance responsibilities under section 106 of the NHPA. Therefore, SEA recommends that the historic preservation condition imposed in the October 1999 decision be removed. Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.¹

¹ The October 1999 decision also imposed the employee protective conditions in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979), and conditions that require W&LE: (1) to consult with the U.S. Department of Agriculture, Natural Resources Conservation Service to provide information required by that agency; and (2) to remove all salvage operation debris from the right-of-way, streams or wetlands, or the banks of such waterways, and take appropriate measures to prevent or control spills from fuels, lubricants, or any other pollutants from entering water courses. Those conditions remain in effect.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the section 106 historic preservation condition imposed in the October 1999 decision is removed.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary